IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 473 OF 2006

SUBHASH K. GAWAS, SATTARI, GOA ....Petitioner

Versus

THE CHAIRMAN, SCHOOL MANAGING COMMITTEE AND ANR., ...Respondents

Mr. V. P. Thali, Advocate for the petitioner.

Mr. S.S.Kantak, AG with Ms. K. Chodankar, AGA for State.

Mr. D.P. Bhise, Advocate for respondent no.1.

Coram:- J. N. PATEL &
N. A. BRITTO, JJ.

Date:- 28th November, 2006

P.C.

The petitioner has approached this Court impugning his suspension order and has sought orders of this Court to direct respondent no.1 to allow the petitioner to sign the muster roll and resume his service and also pay his arrears of salary for and from the months of December 2005 till date.

2. It is the case of the petitioner that the petitioner has been working as a 'Lower Division Clerk' cum Librarian' in the Honda High School, Sattari. By order dated 27.1.2006, the petitioner came to be suspended without following the proper procedure and that he has not been paid any subsistence allowance and any inquiry is conducted.

3. In the affidavit in reply, the respondent no.1 has specified the reasons for suspension of the petitioner on the ground that he was arrested by Valpoi Police and detained on 29.12.2005 on a Criminal charge and on

being arrested in crime no.79/05 under section 143, 147, 148, 353, 352, 323, 324, 325, 307 r/w 149 of Indian Penal Code and section 3 of Prevention and Destruction of Public Property Act. It is specifically stated that on account of alleged involvement in criminal case, the disciplinary action was taken after the Management became aware of this and till such time it is necessary to keep the petitioner under suspension. It is contended that the petitioner would be entitled to subsistence allowance and the said allowance is already drawn and the petititoner can withdraw it from his account where it has been credited by depositing two cheques in his Account in Syndicate Bank.

4. This contention of the respondent is disputed by the learned Counsel for the petitioner after seeking instruction who is present in the Court. The learned Counsel for the petitioner submits that the petitioner is ready to face proceedings inspite of the pendency of criminal proceedings against him and does not claim any right or privilege to postpone the proceedings till the criminal case is concluded.

5. In view of the stand taken by the petitioner, we do not find any reason as to why the respondent no.1 should not initiate Departmental action into the matter as expeditiously as possible. The learned Counsel for the respondent no.1 submits that if that is so, they will initiate Departmental action and conclude the same within a period of three months w.e.f. 1.12.2006 and that the petitioner should extend all co-operation. The learned Counsel for the respondent also assures the Court that the petitioner would be paid subsistence allowance regularly.

6. We accept the statement made by the learned Counsel for the respondent no.1. The relief sought for by the petitioner in this petition, that he should be allowed to resume his service and sign the muster roll and claim for arrears of salary cannot be granted as the respondents have been able to place before the Court the fact that the petitioner has been arrested in criminal case and that he will be paid subsistence allowance for which he is entitled and further that they will initiate Departmental

action against the petitioner and conclude the inquiry within three months commencing from 1.12.2006.

7. In view of this statement made on behalf of the respondents, the petition stands disposed of as infructuous.

J. N. PATEL, J.

N. A. BRITTO, J.

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